IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.27198 of 1999

Dated: 11-06-2007

Between:

Sri Giri Veereswara Swamy Temple,
Kondapalli, Krishna District,
rep. by its Managing Trustee
Sri M. Radhakrishna Murthy,
s/o Venkatareddy,
r/o Kondapalle,
Krishna District.

... Petitioner

and

1. The Assistant Commissioner of Endowments Department, Vijayawada and 3 others.

... Respondents

ORDER:

Petitioner is a temple represented by its Managing Trustee, and is seeking a direction to the official respondents i.e. respondents 1 and 2 to release the interest on F.D.R No.3267, dated 06-09-1995 to petitioner temple and also to remit the same to the S.B. Account of petitioner temple maintained with second respondent bank by holding that the instructions of

first respondent to second respondent in the impugned letter dated 06-12-1995 as illegal, arbitrary and without power or authority.

2. The brief facts are that an extent of Acs.9-01 cent in R.S.No.112 is in existence since times immemorial. The said land was acquired by the Land Acquisition Officer for the purpose of construction of Autonagar, in Vijayawada and proceedings under the Land Acquisition Act, 1884 (for short, 'the Act') were initiated, ultimately after conducting the award enquiry the Land Acquisition Officer fixed the amount of compensation. Now the petitioner temple – Sri Giri Veereswaraswamy temple and third respondent – Sri Chennakesava Ramalayam temple are claiming that the said land belongs to them and as such the amount of compensation is to be paid to them only, but not to the other temple. Having regard to the said dispute, the Land Acquisition Officer sent the entire amount to the Assistant Commissioner of Endowments, Vijayawada.

It appears he held an enquiry into the matter and both petitioner as well as third respondent appeared before him, advanced their arguments and also produced the relevant documents. However, it appears there was a consensus between the temples and accordingly they gave consent letters stating that the said amount of compensation may be paid equally. Accordingly, the Assistant Commissioner of Endowments passed an order stating that both the temples are entitled to the said amount of compensation equally. Subsequently,

it appears third respondent temple raised an objection and gave a letter to the Assistant Commissioner of Endowments stating that it is not willing for the said compromise and thus requested the Assistant Commissioner of Endowments not to permit petitioner temple to withdraw the interest on the F.D.R. lying with second respondent bank. Pursuant thereto, the Assistant Commissioner of Endowments passed an order in Rc.No.A1/3876/95, dated 06-12-1995 directing second respondent bank not to release the amount on the F.D.R. to the Executive Authority of petitioner temple. The said order

and the inaction on the part of respondents in not permitting the petitioner to withdraw the said amount are questioned in this writ petition.

3. Respondent No.1 as well as respondent No.2 filed their respective counter affidavits.

4. Heard learned counsel for the parties.

5. *Prima facie,* this Court is of the view that the Land Acquisition Officer had committed a mistake in sending the amounts to the Assistant Commissioner of Endowments for apportionment. In fact, according to Section 30 of the Act after passing of the award under Section 11 of the Act, if any dispute arises as to the apportionment of the same or any part thereof, or as to the persons to whom the same or any part thereof is payable, the Collector may refer such dispute to the decision of the Court. It is not as though there was no dispute when the Land Acquisition Officer was holding award enquiry under Section 11 of the Act. Even by then there was a dispute and that only prompted the Land Acquisition Officer to send the entire amount of compensation to the Assistant Commissioner of Endowments for apportionment. Hence, this Court is of the view that the Land Acquisition Officer at the threshold has committed an error in referring the matter to the Assistant Commissioner of Endowments. May be it is a fact that in the order dated 18-01-1995 it is stated by the Assistant Commissioner of Endowments that both parties i.e. petitioner as well as third respondent have given their written consent letters stating that they have no objection if the dispute is settled over by distributing the compensation amount equally, but it has no locus to stand. If really it is a fact, then third respondent temple would not have again given a letter objecting to that. Similarly, third respondent temple would not have come forward and filed a counter affidavit denying the various allegations made in the affidavit filed in support of the writ petition. For that reason also, this

Court is of the view that the written consent letters given by both parties cannot be acted upon.

6. Accordingly, the writ petition is disposed of directing the Land Acquisition Officer to refer the matter to a competent Civil Court under Section 30 of the Act for apportionment of the amount of compensation and the persons who are entitled to the said amount of compensation. No costs.

As the matter is an old one, the matter is directed to be referred to the competent Civil Court within a period of four weeks from the date of receipt of a copy of this order, and the Civil Court which entertains the said reference, is directed to decide the said reference and pass appropriate orders within three months thereafter. Till such time, the amount of compensation including the interest, solatium and other amounts, as payable under the provisions of the Act, shall not be disbursed either to petitioner or to third respondent.

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JUSTICE GOPALAKRISHNA TAMADA

Dt.11-06-2007
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